

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 769 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

SAFI MAHMAD MASWARKHAN RATHOD

Versus

DISTRICT SUPERINTENDENT OF POLICE

Appearance:

1. Special Civil Application No. 769 of 1988
MR NIRZAR DESAI for MR YN OZA for Petitioner No. 1
MR KL PANDYA, AGP for Respondent No. 1-4

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 30/09/2002

ORAL JUDGEMENT

#. The petitioner who was working as Constable at Sabarmati Railway Police Station, seeks a direction on the respondents to give him promotion to the post of Head Constable Gr.II and also to give him a deemed date of promotion from 8.8.84. This claim is made on the ground that the Respondent No. 4 who was earlier a Constable in

S.R.P.Goup VII and had joined service on 10.9.68, was transferred out of Baroda District on 11.1.84 at his own request and therefore, as per the circular dated 21.1.81, a copy of which is annexed as Annexure:B to the petition, he should have been shown junior at the place of his transfer. However, he came to be promoted earlier than the petitioner and, therefore, the fundamental rights of the petitioner under Articles 14 and 16 were violated.

#. It is pointed out from the record by the learned AGP, appearing for the respondents that as per the communication dated 16.6.84 from the office of D.I.G.P., Western Railway, it was informed that the seniority of six drivers shall be determined on the basis of the passing of the qualifying test as per the circular dated 6th May, 1983. Accordingly, the seniority of the Respondent No. 4, who has passed the qualifying test on 4.8.71 was fixed at sr. no. 1, while that of the petitioner was fixed at sr. no. 5 on the basis of his having passed the qualifying driving test on 12.10.81. It appears that the petitioner was informed in response to his application dated 10th August, 1987, by a letter dated 10.9.87 that no injustice was done to him in the matter of promotion. It appears from the record that the Departmental Promotion Committee prepared the seniority list as per the instructions issued on 16.6.64 on the strength of the incumbent's passing the qualifying driving test, which cannot be said to be irrational. There is, therefore, no violation of any fundamental right of the petitioner under Articles 14 or 16 of the Constitution of India. The petition is, therefore, rejected. Rule is discharged with no order as to costs.

[R.K. ABICHANDANI, J.]

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